

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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ROBERT COLOZZI, et al.,

Plaintiffs,

- vs -

5:08-CV-1220

ST. JOSEPH'S HOSPITAL CENTER, et al.,

Defendants.  
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APPEARANCES:

THOMAS & SOLOMON LLP  
Attorneys for Plaintiffs  
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Rochester, NY 14607

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Attorneys for Defendants  
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Syracuse, NY 13202

DAVID N. HURD  
United States District Judge

OF COUNSEL:

J. NELSON THOMAS, ESQ.  
PATRICK J. SOLOMON, ESQ.  
JUSTIN M. CORDELLO, ESQ.  
MICHAEL J. LINGLE, ESQ.  
SARA E. ROOK, ESQ.

ROBERT J. SMITH, ESQ.  
DENNIS P. HENNIGAN, ESQ.  
EDWARD G. MELVIN, ESQ.  
MICHAEL A. TREMONT, ESQ.  
NICOLE MARLOW-JONES, ESQ.

**DECISION and ORDER**

The named plaintiffs brought this action in November 2008, asserting a variety of federal and state law claims. By Report-Recommendation dated July 20, 2010, the Honorable David E. Peebles, United States Magistrate Judge, recommended that defendants' motion for dismissal of all claims of the thirteen named opt-in plaintiffs who have failed to answer court approved interrogatories (Dkt. No. 268) be granted, and that the following plaintiffs' claims against the defendants in this action be dismissed subject to their

right, should class certification be granted, to participate as class members in the action if deemed appropriate by the court:

- |                              |                       |
|------------------------------|-----------------------|
| 1. Veronica Benz             | 8. Mary K. Johnson    |
| 2. Celinda Case              | 9. Daniel Knapp       |
| 3. Robin Dunagan             | 10. Joanne Niemann    |
| 4. Deane J. Engleman         | 11. Mary Phelan       |
| 5. Lisa Marie Finlay (Cosma) | 12. Renee Steetes     |
| 6. Marie Granato             | 13. Patricia Talarico |
| 7. Denise Haley              |                       |

The plaintiffs have filed timely objections to the Report-Recommendation.

Based upon a de novo review of the entire file, including the portions of the Report-Recommendation to which plaintiff has objected, and the recommendations of Magistrate Judge Peebles, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

Accordingly, it is

ORDERED that

1. Defendants' motion for dismissal of all claims of the thirteen named opt-in plaintiffs who have failed to answer court approved interrogatories (Dkt. No. 268) is GRANTED;

2. The following plaintiffs' claims against the defendants in this action are DISMISSED subject to their right, should class certification be granted, to participate as class members in the action if deemed appropriate by the court:

1. Veronica Benz

2. Celinda Case

3. Robin Dunagan

4. Dean J. Engleman

5. Lisa Marie Finlay (Cosma)

6. Marie Granato

7. Denise Haley

8. Mary K. Johnson

9. Daniel Knapp

10. Joanne Niemann

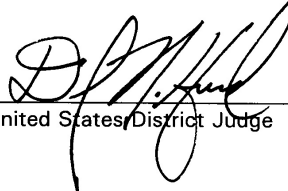
11. Mary Phelan

12. Renee Steetes

13. Patricia Talarico

IT IS SO ORDERED.

Dated: August 27, 2010  
Utica, New York.



United States District Judge